

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex(BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 15-2-88

IA I IN APPLICATION NOS. 731 & 1842 /86(T)  
W.P. NO. 4754/81 & 5740 / 85

ApplicantRespondent

Dr (Mrs) Radha Nayar  
To

V/s The Secy, M/o Forestry & Environment & 4 Ors

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| <p>1. Dr (Mrs) Radha Nayar<br/>Senior Research Officer(OG)<br/>Sandal Research Centre<br/>Bangalore - 560 003</p> <p>2. Shri P. Shankaranarayanan<br/>Advocate<br/>C/o Col V.K.K. Nair (Retd)<br/>Advocate<br/>16, Hospital Road<br/>Shivaji Nagar<br/>Bangalore - 560 001</p> <p>3. The Secretary<br/>Ministry of Forestry &amp; Environment<br/>Department of Agriculture &amp; Co-Operation<br/>Krishi Bhavan<br/>New Delhi - 110 001</p> <p>4. The Inspector General of Forests<br/>Ministry of Forestry &amp; Environment<br/>Dept. of Agriculture &amp; Co-Operation<br/>Krishi Bhavan<br/>New Delhi - 110 001</p> | <p>5. The President<br/>Forest Research Institute &amp; Colleges<br/>P.O. New Forest<br/>Dehradun (Uttar Pradesh)</p> <p>6. Shri K.R. Vankatesan (I.F.S.)<br/>Co-Ordinator<br/>Sandal Research Centre<br/>Bangalore - 560 003</p> <p>7. Shri J.C. Jain<br/>Head of Utilisation Research<br/>Forest Research Laboratory<br/>Bangalore - 560 003</p> <p>8. Shri M.S. Padmarajaiah<br/>Central Govt. Stng Counsel<br/>High Court Building<br/>Bangalore - 560 001</p> |
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Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/~~INTERIM ORDER~~  
passed by this Tribunal in the above said application on 2-2-88.

*R.V. Venkatesh Reddy*  
DEPUTY REGISTRAR  
(JUDICIAL)

Encl : As above

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE SECOND DAY OF FEBRUARY 1988

Present: Hon'ble Justice Shri K.S. Puttaswamy ... Vice-Chairman  
Hon'ble Shri P.Srinivasan ... Member (A)

APPLICATIONS NO.731/86(T)  
AND No.1842/86(F)

Smt. Radha Nayar ... Applicant

v.

Union of India and others ... Respondents

NI.A. No.1 filed by the Respondents seeking for directions:

In this interlocutory application, Respondents 1 to 3 have sought for direction or a clarification to the effect that the final order made by us in the above cases, on 25.2.1987 in so far as the same relates to para 4 of para 35 of that order and its implementation, does not offend Office Memorandum No.21011/1/77-Estt.A dated 30.1.1978.

2. Sub-para 4 of para 35 of our order, which is material reads thus:

"35.4. We quash the supersession of the applicant to the post of SRD (SG) on 29.10.1982 and 8.2.1986 and their acceptance by the appointing authority. We direct the appointing authority to get the CRs of the applicant written up in the first instance for all the years and then re-examine the case of the applicant for promotion to the post of SRD(SG) on 29.10.1982 and 8.2.1986 and promote her if she is found suitable for promotion to that post on any of those occasions extending all such consequential financial benefits as she is entitled to on such promotion".

In issuing this direction we have held that the CRs of the applicant for different periods detailed in our order suffer from various infirmities and that the authorities should get them written up



for the relevant periods and then consider her case for promotion as on 29.10.1982 and 8.2.1986.

3. In Office Memorandum No.21011/1/77-Estt.A dated 30.1.1978 Government had inter-alia stated thus:-

"(ii) Where thereporting officer retires or otherwise demits office, he may be allowed to give the report on his subordinates within a month of his retirement or demission of office."

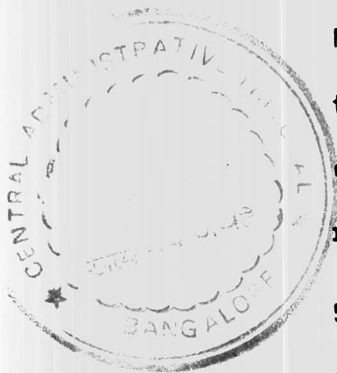
In this clause Government had directed the CRs to be got written up at least within a month of retirement or demission of office of the officer writing CRs.

4. Respondents 1 to 3, apprehend that if they were to carry out our directions, then they have necessarily to violate the aforesaid direction of Government. On this premise, in IA No.1 Respondents 1 to 3 have sought for clarification. In other words they seek for a direction that they are not required to comply with clause (ii) of the Memorandum dated 30.1.1978 which we have earlier reproduced.

5. The applicant has filed her objections to IA No.1 inter-alia contending that we cannot add to or detract from the whole or part of the final order made by us.

6. Shri M.S. Padmarajaiah, learned senior standing counsel appearing for Respondents 1 to 3 contends that it was necessary for us to clarify our order and declares that in implementing our direction they are not required to comply with clause (ii) of the OM dated 30.1.1978 of Government.

7. Shri P. Shankaranarayanan, learned counsel for the applicant, contends that the OM dated 30.1.1978 and all other Memoranda issued by Government regulating the writing of CRs are 'laws' and



that it was not open to the authorities to violate any of them for any reason and that being so, the one and only course now open to us was to declare that the applicant stood promoted from 29.10.1982 with all consequential benefits. In support of his very elaborate submissions made before us on this aspect, Shri Shankaranarayanan strongly relies on the ruling of Supreme Court in AIR 1984 SCC (L&S) 197, a ruling of this Tribunal in ATR 1984 1 CAT 114 and a ruling of Kerala High Court in 1985 (1) SLR 478. In the very nature of things it is necessary to examine this contentions of Shri Shankaranarayanan first and then deal with the prayer of Respondent No.1 to 3.

8. In IA No.1 Respondent No.1 to 3 have not sought for a review of our order, but have only sought for a clarification or direction to effectuate our main order.

9. In an IA made by the respondents, that too for a simple clarification it is not open to us to go beyond that application, annul our own order and on the top of all that grant what was not even granted by us in deciding the very original application. On this short ground we must reject what is prayed by the applicant.

10. We are of the view that however wide our powers are under the Act, it is not open to us to reexamine our own order and grant a declaration to the effect that the applicant stands promoted from 29.10.1982 with all consequential benefits. We are, therefore, of the view that the relief sought by the applicant <sup>at</sup> ~~on~~ the hearing of this IA, cannot on any principle be granted by us. If that is so, then every one of the rulings relied on by Shri Shankaranarayanan, do not really bear on the point. We, therefore, do not propose to refer to




them in any detail, as it is wholly unnecessary to do so.

11. On the foregoing discussion we hold that the extreme relief sought by the applicant cannot be granted by us. We, therefore, decline to examine the same and grant also.


12. When we made our final order, we had not overlooked the various executive instructions issued by Government dealing with the writing of CRs including the OM dated 30.1.1978. The fact that we have not referred to them in our order, does not necessarily mean that we were not conscious of those orders and our order was in defiance of all or any of them.

13. Every one of the orders made by Government and in particular para 2 of OM dated 30.1.1978, which are all executive instructions and are not 'law' within the meaning of the term occurring in Article 13 of the Constitution cannot by any stretch of imagination be construed as violating our order and our order violating them also. They must all be read as consistent, subordinate and effectuating our orders only. We must not read them as being in conflict with our order at all. From this it follows that Respondent No.1 to 3 are bound to implement our order without reference to the time limit if any stipulated in OM dated 30.1.1978 or any other Memoranda on the subject. With this clarification, which also was not really necessary, we dispose of this IA. But in the circumstances of the case we direct the parties to bear their own costs.

TRUE COPY

  
DEPUTY REGISTRAR (JDL) 7372  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE bsv

sd/-  
VICE CHAIRMAN  


sd/-  
MEMBER (A)  


*K. J. K.*  
*3/4*  
*R 9/11*  
*Shankar*

*Carale*  
Dy. No. 380/287-11  
Date 11/11/88

D. No. 4290/87/Sec- IV.A  
SUPREME COURT OF INDIA  
NEW DELHI

Dated 26th October, 1988

From: The Additional Registrar,  
Supreme Court of India,  
New Delhi

To  
The Registrar,  
Central Administrative Tribunal,  
B.D.A. Complex, Indira Nagar,  
Bangalore - 560 038.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. ~~XX8289XX~~ 11308/22x 87.  
(Petition under Article 136 of the Constitution of India, for  
Special Leave to Appeal to the Supreme Court from the ~~Judgment~~  
~~XX~~ Order dated 25.2.87. of the ~~High Court~~  
Central Administrative Tribunal, Bangalore Bench, Bangalore  
in Application No. ~~730XX~~ 1842 of 1986.)

Dr. Mrs. Radha Nayar

.....Petitioner.

vs

Union of India & Ors.

.....Respondents.

Sir,

I am to inform you that the Petition above-mentioned for  
Special Leave to Appeal to this Court was filed on behalf of  
the Petitioner above-named from the ~~Judgment and~~ Order of the  
Central Administrative Tribunal, Bangalore  
~~High Court~~ noted above and that the same ~~was~~ were dismissed/  
~~dismissed~~ by this Court on the 12th day of October,  
1988.

Yours faithfully,

*Jayant K. N.*  
for ADDL. REGISTRAR.

AS!

ns/14.9.1988/ivA\*